

THE HONORABLE JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KURT BENSHOOF, *et al.*,

Plaintiffs,

v.

MOSHE ADMON, *et al.*,

Defendants.

NO. 2:23-cv-01392-JNW

**BLAIR M. RUSS'S JOINDER OF THE  
CITY OF SEATTLE'S MOTION FOR A  
VEXATIOUS LITIGANT ORDER  
AGAINST KURT BENSHOOF**

COMES NOW, Defendant Blair Russ ("Defendant Russ" or the "Undersigned") and files this Joinder of Defendant City of Seattle's Motion for Vexatious Litigant Order Against Plaintiff Kurt A. Benshoof (the "Motion"), Dkt. 250, and states in support thereof as follows:

Defendant Russ represented Jessica Owen ("Ms. Owen") in King County Superior Court, Cause Nos. 22-2-02932-3 SEA, 22-2-03826-8 SEA (consolidated with 22-2-15745-3 SEA) and 22-2-15958-8 SEA, and the three appeals ensuing from two of those King County Superior Court matters: *Benshoof v. Owen*, No. 85465-8-I (Wash. Ct. App. Div. 1) (2023); *Benshoof v. Cliber, et al.*, No. 85092-0-I (Wash. Ct. App.) (Div. 1) (2023); and *Benshoof v. Cliber, et al.*, No. 86466-0-I (Wash. Ct. App.) (Div. 1) (2023).

In addition to being named as a defendant in 2:22-cv-01281-LK and this above captioned matter, Benshoof has named the Undersigned in two other matters in this Court filed under 2:22-cv-01281-LK (dismissed on July 19, 2024) and 2:24-cv-00808-TLF (filed June 7, 2024). In Benshoof's most recent filing (2:24-cv-00808-TLF), Benshoof has also named this

BLAIR M. RUSS'S JOINDER OF THE CITY OF  
SEATTLE'S MOTION FOR A VEXATIOUS LITIGANT  
ORDER AGAINST KURT BENSHOOF - 1

**TOMLINSON  
BOMSZTYK  
RUSS**

1000 Second Avenue, Suite 3660,  
Seattle, Washington 98104-1046  
P/ 206.621.1871 F/ 206.621.9907

1 Court, King County Superior Court Judge Marshall Ferguson, Mr. Cliber's attorneys (Michael  
 2 Tracey and Sarah Turner), and counsel for the Seattle School District – Jessica Skelton – as  
 3 defendants.

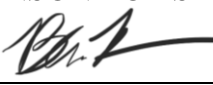
4 Defendant Russ joins in the City of Seattle's Motion and incorporates the same as if  
 5 fully stated herein with one minor correction to the statement of facts. In *Benshoof v. Owen*,  
 6 No. 85465-8-I (Wash. Ct. App. Div. 1) (2023), Benshoof was represented by counsel and did  
 7 not abandon that appeal. Oral argument was held in that matter on June 12, 2024, and the Panel  
 8 has yet to render its decision.

9 For the reasons stated in the City of Seattle's Motion, Defendant Russ respectfully  
 10 requests that this Court enter the City of Seattle's [Proposed] Vexatious Litigant Order Against  
 11 Kurt A. Benshoof, Dkt. 250-1. Further, if the Court grants the Motion, Defendant Russ  
 12 respectfully requests that the Order Restricting Abusive Litigation of Kurt Benshoof, entered  
 13 by Judge Ferguson in King County Superior Court Case No. 22-2-15958-8 SEA on March 31,  
 14 2023, be attached to this Court's Order granting the Motion as an exhibit and, consistent with  
 15 Judge Ferguson's March 1, 2024 Order finding Benshoof in contempt attached hereto as  
 16 ***Exhibit A***, that Benshoof be ordered to seek leave to proceed with the matter filed under 24-  
 17 cv-00808-TLF or otherwise dismiss that matter within ten (10) days of entry of order on the  
 18 City's motion herein.

19 I certify this this Joinder contains 398 words, in compliance with Local Civil Rules.

20 DATED: July 25, 2024

TOMLINSON BOMSZTYK RUSS

21 By:   
 22 Blair M. Russ, WSBA #40374  
 23 Email: bmr@tbr-law.com

**CERTIFICATE OF SERVICE**

I hereby certify that on July 25, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties of record.



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Lisa Sebree, Paralegal  
Email: lae@tbr-law.com

# Exhibit A

The Honorable Marshall Ferguson

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KURT BENSHOOF,

Plaintiff,

v.

NATHAN CLIBER, JESSICA OWEN and  
MAGALIE LERMAN,

Defendants.

Case No. 22-2-15958-8 SEA

**ORDER FINDING OF CONTEMPT  
AND IMPOSING SANCTIONS  
AGAINST PLAINTIFF KURT  
BENSHOOF**

This matter comes before the Court on Defendant Nathan Cliber's Motion for Finding of Contempt and Sanctions Against Plaintiff Kurt Benshoof ("Cliber's Motion"), Defendant Jessica Owen's Motion for Finding and Contempt and Sanctions Against Plaintiff Kurt Benshoof ("Owen's Motion"). The Court considered the arguments of the parties, the documents and pleadings on file herein, including the following:

- Cliber's Motion;
- The Declaration of Sarah N. Turner in Support of Cliber's Motion;
- Plaintiff's Opposition to Cliber's Motion;
- Defendant Nathan Cliber's Reply in Support of Cliber's Motion;
- Owen's Motion;
- The Declaration of Jessica Owen in Support of Owen's Motion;
- The Declaration of Paige Gagliardi in Support of Owen's Motion;

ORDER FINDING OF CONTEMPT AND IMPOSING  
SANCTIONS AGAINST PLAINTIFF KURT BENSHOOF - 1

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Attorneys at Law  
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- The Declaration of Moshe Y. Admon in Support of Cliber's and Owen's Motions;
- Plaintiff's Opposition to Owen's Motion; and
- Defendant Jessica Owen's Reply in Support of Owen's Motion.

Based upon such review and consideration, the Court GRANTS both Cliber's Motion and Owen's Motion, and enters the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

1. Plaintiff has disregarded and failed to comply with this Court's Order Restricting Abusive Litigation of Kurt Benshoof (the "Abusive Litigation Order") (Dkt. 189) in his filing and attempted service of new claims and causes of action in Western District of Washington Case No. 2:23-cv-01392-JNW and Western District of Washington Case No. 2:23-cv-01829-JHC (now JNW) upon Defendants Nathan Cliber, Jessica Owen, and the other "Persons Covered by This Order" (as those persons are defined in the Abusive Litigation Order);

2. Specifically, Plaintiff failed to file a contemporaneous motion for leave to proceed with his claims against Mr. Cliber, Jessica Owen and other Persons Covered by This Order (as those persons are defined in the Abusive Litigation Order) in both Case No. 2:23-cv-01392-JNW and Case No. 2:23-cv-01829-JHC, as required by the Abusive Litigation Order (at p. 6, ¶ 4);

3. Plaintiff also failed to file a copy of the Abusive Litigation Order with the federal court in Case No. 2:23-cv-01829-JHC, as required by the Abusive Litigation Order (at p. 6, ¶ 5);

4. In Case No. 2:23-cv-01392-JNW, Plaintiff did file a copy of the Abusive Litigation Order, but he did so by burying the order among 2,034 pages of exhibits to his complaint. Plaintiff filed a 184-page original complaint and later a 280-page amended complaint in Case No. 2:23-cv-01392-JNW. Plaintiff's 2,034-page exhibit filing occurred on September 26, 2023, seven calendar days after Plaintiff filed the original complaint. Within the 2,034 pages of exhibits, the Abusive Litigation Order can be found at Pages 563 through 571. Plaintiff buried the Abusive Litigation Order among numerous other exhibits to reduce the likelihood that the federal court would become aware of the order;

1           5.       Plaintiff is in contempt of court for violating the Abusive Litigation Order.

2           6.       The Abusive Litigation Order warned Mr. Benshoof that if he “fails to abide by the  
3 terms this Order, any party may move, or the Court *sua sponte* may move, for a finding of contempt  
4 and sanctions. A contempt finding could result in the imposition of jail time as a sanction.”  
5 Abusive Litigation Order (p. 6, ¶ 6);

6           7.       The Abusive Litigation Order included the Knight<sup>1</sup> warnings as an attachment;

7           8.       The Abusive Litigation Order clearly and unequivocally states that the filing  
8 restrictions in the order “apply to any and all future litigation Mr. Benshoof may attempt to bring”  
9 against the protected persons. Abusive Litigation Order, p. 5. The order further states that Mr.  
10 Benshoof is “**ENJOINED AND RESTRAINED**...from initiating any litigation whatsoever in  
11 any Superior Court in the state of Washington... unless Mr. Benshoof first obtains advanced  
12 approval from this Court” and that “If Mr. Benshoof seeks to commence a new action...in a court  
13 *other than* a Superior Court, Mr. Benshoof must first bring a motion in the other court for leave to  
14 proceed with the action.” *Id.*, p. 5, ¶ 1 and p. 6, ¶ 4. Although the Abusive Litigation Order is  
15 clear and unambiguous, the Court now clarifies, as guidance for Mr. Benshoof, that terms like “any  
16 and all future litigation” and “new action” in the Abusive Litigation Order include all claims,  
17 counterclaims, crossclaims, third party actions, and any other claims whatsoever brought by Mr.  
18 Benshoof in any court against the “Persons Covered by This Order” as defined in the Abusive  
19 Litigation Order.

20           9.       Although the present Order does not include jail time as a sanction, any future  
21 violation(s) of the Abusive Litigation Order by Mr. Benshoof could potentially result in jail time  
22 as a remedial or punitive sanction.

23       ///

24       ///

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<sup>1</sup> *State ex rel. Schmitz v. Knight*, 142 Wn. App. 291, 174 P.3d 1198 (2007).

1 Based upon the above findings of fact and conclusions of law, the Court ORDERS the  
2 following sanctions:

3 A. Mr. Benshoof is ordered to pay the attorneys' fees and costs incurred by Defendants  
4 in bringing their respective motions for finding of contempt and sanctions against Mr. Benshoof,  
5 including supporting filings, declarations, and replies. Defendants shall submit their respective  
6 fee petitions to the Court within **14 days** of this Order.

7 B. Mr. Benshoof shall pay the attorneys' fees and costs incurred by Mr. Cliber in  
8 bringing the Abusive Litigation Order to the attention of the federal court in Western District of  
9 Washington Case No. 2:23-cv-01392-JNW and Western District of Washington Case No. 2:23-  
10 cv-01829-JHC (now JNW). Mr. Cliber shall submit his fee petition to the Court within **14 days**  
11 of this Order.

12 C. The Abusive Litigation Order's expiration date is extended by one year, to **March**  
13 **31, 2029**.

14 D. Mr. Benshoof shall file the leave motion ("Leave Motion") required by the Abusive  
15 Litigation Order in both Western District of Washington Case No. 2:23-cv-01392-JNW and  
16 Western District of Washington Case No. 2:23-cv-01829-JHC (now JNW) as to any and all  
17 Persons Covered by This Order, excluding Mr. Cliber, and including Moshe Admon, Owen  
18 Hermesen, Magalie Lerman, Jessica Owen, and Blair Russ (collectively, "Other Named Defendants  
19 Covered by this Order"). Such motion ("Leave Motion") shall be captioned "Motion for Leave to  
20 Proceed Against Certain Parties in Accordance with the Order Restricting the Abusive Litigation  
21 of Kurt Benshoof" and shall conspicuously identify the Abusive Litigation Order in the statement  
22 of facts. Plaintiff shall attach a copy of the Abusive Litigation Order as an exhibit to a separately  
23 filed supporting declaration, appendix, or addendum to the Leave Motion.

24 E. Upon filing the Leave Motions, Mr. Benshoof shall file proof in this action of such  
25 filings in the federal court cases. Absent obtaining leave to proceed against the Other Named  
26



1 Defendants Covered by this Order, Mr. Benshoof shall refrain from taking any action in pursuit of  
2 his claims against those individuals including but not limited to, attempting effectuate service and  
3 seeking affirmative relief in any form. To the extent necessary to comply with an impending  
4 deadline, Mr. Benshoof may seek to extend that deadline to an extent necessary to accommodate  
5 a ruling on the Leave Motion.  
6

7 **F. Beginning one calendar week from the entry of this Order, for each day Mr.**  
8 **Benshoof has failed to file the Abusive Litigation Order's required leave motion in BOTH**  
9 **pending actions, or otherwise dismissed claims in those actions against the Other Named**  
10 **Defendants Covered by This Order, an ongoing remedial sanction shall be entered against**  
11 **him in the amount of \$250 per day, per Other Defendant Covered by This Order. Mr.**  
12 Benshoof shall deposit such accrued amounts in the King County Superior Court Registry under  
13 this cause number and the Other Named Defendants may, at their option, apply for disbursement  
14 or seek to enter a judgment for any accrued amounts not so deposited.

15 **G.** For any further legal proceedings filed by Mr. Benshoof in violation of the Abusive  
16 Litigation Order, he shall be assessed, in addition to any other sanction which may be imposed, a  
17 per diem sanction of \$250.00 per day per Person Covered by the Order named as a defendant in  
18 such action.

19 DATED this 1st day of March, 2024.

20  
21 THE HONORABLE MARSHALL FERGUSON  
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King County Superior Court  
Judicial Electronic Signature Page

Case Number: 22-2-15958-8  
Case Title: BENSHOOF VS CLIBER ET AL  
Document Title: ORDER RE CONTEMPT SANCTIONS  
  
Signed By: Marshall Ferguson  
Date: March 01, 2024

A handwritten signature in black ink, appearing to read 'MLL II' followed by a stylized flourish.

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Judge: Marshall Ferguson

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: A4ABB09C7C1D81F742E845B69E1C4CD6FEAA5E8C  
Certificate effective date: 7/17/2023 2:21:34 PM  
Certificate expiry date: 7/17/2028 2:21:34 PM  
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,  
O=KCDJA, CN="Marshall Ferguson:  
8skMktsk7hG1yuM6zbJ6iw=="